

1 BILL LOCKYER, Attorney General
of the State of California
2 SAMUEL K. HAMMOND, State Bar No. 141135
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2083
Facsimile: (619) 645-2061
7
8 Attorneys for Complainant

9 **BEFORE THE**
RESPIRATORY CARE BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
Against:

13 TAMARA RATTER
14 2315 Tahoe Circle, #A
Hemet, CA 92545
15
16 Respiratory Care Practitioner
License No. 12224

17 Respondent.

Case No. R-2001

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

18
19 FINDINGS OF FACT

20 1. On or about October 20, 2005, Complainant Stephanie Nunez, in her
21 official capacity as the Executive Officer of the Respiratory Care Board of California, Department
22 of Consumer Affairs, Petition to Revoke Probation No. R-2001 against TAMARA RATTER
23 (Respondent) before the Respiratory Care Board.

24 2. On or about October 17, 1988, the Respiratory Care Board (Board) issued
25 Respiratory Care Practitioner License No. 12224 to Respondent. The Respiratory Care
26 Practitioner License was in full force and effect at all times relevant to the charges brought herein
27 and will expire on April 30, 2006, unless renewed.

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1 3. On or about October 20, 2005, Jennifer Porcalla, an employee of the
2 Complainant Agency, served Respondent by Certified and First Class Mail with a true and correct
3 copy of the Petition to Revoke Probation No. R-2001, Statement to Respondent, Notice of
4 Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7
5 at her address of record on file with the Board, which was and is 2315 Tahoe Circle, #A, Hemet,
6 CA 92545. A copy of the Petition to Revoke Probation, accompanying documents, and
7 Declaration of Service are attached as Exhibit A, and are incorporated by reference as if fully set
8 forth herein.

9 4. Service of the Petition to Revoke Probation was effective as a matter of
10 law under the provisions of Government Code section 11505, subdivision (c).

11 5. On or about November 3, 2005, the aforementioned documents were
12 returned by the U.S. Postal Service marked "return to sender - attempted not known." A copy of
13 the postal returned documents are attached hereto as Exhibit B, and are incorporated herein by
14 reference. The aforementioned documents mailed to Respondent by regular mail at her address of
15 record on file with the Board has not been returned by the post office.

16 6. Government Code section 11506 states, in pertinent part, that:

17 “(a) Within 15 days after service of the accusation, the respondent may file
18 with the agency a notice of defense in which the respondent may:

19 “(l) Request a hearing.

20 “... .

21 “(c) The respondent shall be entitled to a hearing on the merits if the
22 respondent files a notice of defense, and the notice shall be deemed a specific
23 denial of all parts of the accusation not expressly admitted. Failure to file a notice
24 of defense shall constitute a waiver of respondent's right to a hearing, but the
25 agency in its discretion may nevertheless grant a hearing.”

26 7. Respondent failed to file a Notice of Defense within 15 days after service
27 upon her of the Petition to Revoke Probation, and therefore waived her right to a hearing on the
28 merits of Petition to Revoke Probation No. R-2001.

8. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. Accordingly, the Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, including Exhibits A and B hereby finds and determines that all of the charges and allegations in Petition to Revoke Probation No. R-2001, and each of them, separately, and severally, are true and correct, and that Respondent has thereby subjected her Respiratory Care Practitioner License No. 12224 to discipline.

10. The Respiratory Care Board further finds that pursuant to Business and Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Petition to Revoke Probation total \$714.00.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent TAMARA RATTER, R.C.P. has subjected her Respiratory Care Practitioner License No. 12224 to discipline.

2. A copy of the Petition to Revoke Probation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Respiratory Care Board is authorized to revoke the probation previously granted Respondent and to revoke Respondent's Respiratory Care Practitioner License based on violations of Business and Professions Code section 3750(g) as alleged in the Petition to Revoke Probation No. R-2001.

5. Respondent is hereby ordered to pay the above costs of investigation and enforcement of this action.

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ORDER

IT IS HEREBY ORDERED that the probation previously granted Respondent TAMARA RATTER, RCP, is revoked, and Respiratory Care Practitioner License No. 12224, heretofore issued to Respondent TAMARA RATTER, R.C.P. is revoked.

Respondent shall reimburse the Respiratory Care Board the amount of \$714.00 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility to reimburse the Board for its costs. Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 30, 2006.

It is so ORDERED December 29, 2005.

Original signed by:
LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

Attachments:

Exhibit A: Petition to Revoke Probation No.R-2001, Related Documents, and Declaration of Service
Exhibit B: Postal Return Documents